

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA,

Plaintiff,

:

Case No. 3:16-cr-160

- vs -

District Judge Thomas M. Rose

Magistrate Judge Michael R. Merz

ELSTARHEEM MURRAY,

Defendant.

:

DECISION AND ORDER

This case is before the Court on Motion of Defendant Murray for an unspecified extension of time to file a motion to vacate under 28 U.S.C. § 2255 (ECF No. 81). As a motion related to an impending § 2255 motion, it is referred to the undersigned under General Order Day 13-01.

Defendant calculates his due date as June 10, 2020. 28 U.S.C. § 2255(f) provides a one-year statute of limitations with the year running from the date on which the judgment of conviction becomes final. According to the docket, Defendant sought review of his conviction in the United States Supreme Court which denied review on October 7, 2019 (ECF No. 78). Accordingly, the statute of limitations would not expire in this case until October 8, 2020, and thus Defendant may not need any extension.

Because the statute of limitations was enacted by Congress, the district courts do not have authority to grant extensions before cases are filed. If continued public health measures to deal

with the COVID-19 pandemic continue in October to prevent access to the prison law library, Defendant should file a motion to vacate which contains the claims he is aware of at that time and then ask the Court to extend his time to amend that motion before it orders the United States to answer.

April 24, 2020.

s/ Michael R. Merz
United States Magistrate Judge